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ABSTRACT

The Lau v. Nichols decision and its implications for school districts are explained in this question and answer format paper. Lau compliance plans are described in full. The number of students necessary for development of a plan or program, what a Lau plan should include, and appropriate program types are detailed. (MK)

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QUESTIONS AND ANSWERS ABOUT

WRITING A LAU COMPLIANCE PLAN

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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1. WHAT IS LAU vs. NICHOLS?

It is the name of a class action suit brought against the San Francisco Unified School District on behalf of approximately 1800 Chinese speaking students. Lau charged that, the school district denied the Chinese speaking students a meaningful opportunity to participate in the public educational program by placing them in classes where English was the sole means of instruction without providing them prior instruction in the English language. It was argued that such action violated the Equal Protection Clause of the Constitution, the California Education Code, and the Civil Rights Act of 1964.

2. WHAT WAS THE COURT'S DECISION?

The Court decided on January 21, 1974, that the Chinese students were not receiving the "benefits" of an equal education and stated that:

a. "Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he must already have acquired those basic skills, is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experience wholly incomprehensive and in no way meaningful".

and that

b. "There is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for those students who do not understand English are then effectively foreclosed from any meaningful education".

3. WHAT WAS THE DECISION BASED ON?

The decision, in favor of the Chinese students, was based on the following:

a. The school district was found to be in violation of the Civil Rights Act of 1964, Title VI, Section 601, which bars discrimination on "the grounds of race, color, or national origin" in "any program or activity receiving federal financial assistance".

b. The school district was found to be also in violation of the DHEW regulation, contained in the May 25, 1970 Memorandum, which stated that:

"Where inability to speak or understand the English language excludes national origin minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students".

4. WHAT ARE THE BASIC IMPLICATIONS OF SUCH A DECISION?

a. The "same" educational services for all students, regardless of their needs, does not qualify as "equal" opportunity under Lau.

b. The students should receive "equal benefits" as well as, equal facilities from their educational experience.

c. The schools have a legal responsibility to provide special educational programs that will benefit the non or limited English speaking student.

5. WHAT IS A LAU COMPLIANCE PLAN?

In general terms, a Lau Compliance Plan is a plan devised and written by a school or school district for meeting the educational needs of non-English

speaking students and/or students of limited English speaking ability.

6. HOW MANY NON-ENGLISH OR LIMITED ENGLISH SPEAKING STUDENTS MUST THERE BE IN A SCHOOL DISTRICT TO ESTABLISH A PLAN OR PROGRAM?

There are several and various opinions on the issue:

a. The Lau decision itself states no specific number requirement, but two of the judges in the case concluded that "special instruction would not be required where the case involved a few youngsters or ... just a single child who speaks only German or Polish, or Spanish, or any other language other than English".

b. In the Serna vs. Portales, a "sizeable minority" won their right to bilingual education.

c. Title VI of the Civil Rights Act of 1964, Section 601, speaks of individual rights: "No person ... shall ... be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance".

d. HEW has stated that, if there are 20 students who speak the same language other than English, the district has to provide a plan to meet their needs. However, a district does have an obligation to serve any student whose primary or home language is other than English.

e. In the case where there are less than 20 students of non or limited English speaking ability, the "school district ... is obligated to take affirmative steps, although these are not expected to be as extensive and comprehensive as they would be in other districts". (Teitelbaum and Hiller).

7. WHAT DOES OR WHAT SHOULD A LAU PLAN INCLUDE?

Each school district should develop a plan based on the student's needs. The plan should include a description of the specific objectives and a task analysis of the procedures that will be followed in order to carry out the plan.

a. Each plan should outline the procedures for:

(1) identifying program eligible students. (Students who are non-English-dominant and who are not achieving at grade level in English, are program eligible).

(2) diagnosing the educational needs of program eligible students.

(3) prescribing and implementing appropriate educational programs (which may include ESL, Bilingual High Intensive Language Training, or Tutorial Programs).

(4) providing ongoing staff training and development.

(5) involving parents, community, and students, in the plan's design and implementation.

(6) establishing a process evaluation and final evaluation of the plan.

b. For each of the above six components, the plan should contain a goal, objectives, and tasks, which detail:

(1) procedures for accomplishment.

(2) instruments to be used.

(3) materials to be developed.

(4) methods of evaluation.

(5) personnel to be used.

(6) time allotments.

c. The plan should include a timeline which illustrates when district staff will plan, implement, and complete the plan's goa's.

d. The plan should include all documentation which supports the district's planning decisions. Documentation may include language surveys, achievement data, budget allotments, test descriptions, etc...

8. WHAT KINDS OF PROGRAMS ARE CONSIDERED APPROPRIATE TO SATISFY THE NEEDS OF THE LAU ELIGIBLE STUDENTS?

The DHEW lists the following as program options depending upon the student's linguistic ability, academic needs, and grade level.

1. Bilingual/Bicultural Program - A program which utilizes the student's native language (example: Portuguese, Spanish) and cultural factors in instructing, maintaining and further developing all the necessary skills in the student's native language and culture while introducing, maintaining, and developing all the necessary skills in the second language and culture (example: English). The end result is a student who can function, totally, in both languages and cultures.
2. English as a Second Language (ESL) - A structured language acquisition program designed to teach English to students whose native language is not English.
3. High Intensive Language Training (HILT) - A total immersion program designed to teach students a new language.
4. Multilingual/Multicultural Program - A program operated under the same principles as a Bilingual/Bicultural program, except that more than one language and culture, in addition to English language and culture, is treated. The end result is a student who can function, totally, in more than two languages and cultures.
5. Transitional Bilingual Education Program (TBE) - A program operated in the same manner as a Bilingual/Bicultural program, except that once the student is fully functional in the second language (English), further instruction in the native language is no longer required.

SOURCES OF INFORMATION ABOUT: Questions and Answers about Writing a Lau Compliance Plan

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